

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

CHARLES WHITE

PLAINTIFF

VS.

CIVIL ACTION NO.: 4:11cv7-SA-JMV

NTC TRANSPORTATION, INC., ET AL.

DEFENDANTS

**ORDER**

This matter is before the court on defendants' motion for discovery to have unanswered requests for admissions deemed admitted (#107). The court, having reviewed the record, the motion, the briefs of the parties, and the applicable law finds the motion is not well-taken.

The court is satisfied, based on the representations of counsel for the plaintiffs and based on the transmittal letter offered in support thereof, that, at worst, the failure, if any, to have included the sets of responses to requests for admissions that are the subject of the current motion was excusable oversight and unintended.

District courts have broad discretion in pretrial matters. *Campbell v. Keystone Aerial Surveys, Inc.*, 138 F.3d 996, 1000 (5th Cir.1998). Federal Rule of Civil Procedure 6(b) allows a court to extend the time in which an act is to be done “on motion made after the time has expired if the party failed to act because of excusable neglect.” Fed.R.Civ.P. 6(b)(1)(B). It is clear that the failure to answer, if any occurred, was not willful, i.e., an intentional failure to respond. These circumstances, taken together with the fact that this multi-party case is still in the discovery phase and the fact that defendants will not be greatly prejudiced by setting aside admissions, support a finding by this court that the motion for deeming the discovery as admitted would not be equitable.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the Defendants’ motion to

have unanswered requests for discovery deemed admitted (#107) is DENIED.

This, the 31<sup>st</sup> day of May 2013.

/s/ Jane M. Virden  
UNITED STATES MAGISTRATE JUDGE